

2004-01

**BULLETIN**

Commonwealth Of Kentucky  
Office Of Insurance  
Frankfort, Kentucky 40601

TO: All Insurance Companies Subject To Kentucky Local Government  
Premium Taxes

FROM: Glenn Jennings, Acting Executive Director

RE: 2004-2005 Kentucky Local Government Premium Tax  
Schedule And Listing Of Payees And Addresses

DATE: April 7, 2004

**Local Government Premium Tax**

KRS 91A.080 permits cities, counties or urban-county governments to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance. New or amended license fees or taxes are effective July 1 of each year on a prospective basis only. KRS 91A.080 further requires the commissioner of insurance to notify each insurance company of the license fees or taxes no less than 85 days prior to their effective date. Accordingly, attached is the 2004-2005 Kentucky Local Government Premium Tax Schedule and the listing of payees and addresses. The cities and counties that have adopted or amended their taxes, payees, or addresses since the publication of Edition 2003-2004 are indicated with an asterisk (\*). **Please also note changes in tax code identifications.**

Insurance companies must adopt procedures to conform to the 2004-2005 schedule by July 1, 2004. The 2004-2005 schedule applies only to **premiums received after** July 1, 2004 through June 30, 2005.

**Determination of Tax Liability**

Pursuant to KRS 91A.080, taxes are imposed on the risks located within the corporate limits of the city, county or urban-county government. Since many mailing addresses are not where the risk is located (they could be within more than one county, or on a county line) zip codes cannot be used to determine the tax liability. It is imperative the company identify the specific county and/or city in which the risk is located in order to properly assess the local government premium taxes.

The insurer must use the tax rate effective on the first day of the policy term. When an insurer collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. The percentage tax rates are to be charged per policy.

### **Special Instructions Related to Surplus Lines Business**

Pursuant to KRS 304.10-180(1)(c), each surplus lines broker is required to pay the local government premium tax in accordance with KRS 91A.080.

Separate quarterly tax returns should be submitted to the applicable local government by the surplus lines broker for each insurance company to which business was exported.

Annual reconciliations should be filed with the Office of Insurance and the applicable local government by the surplus lines broker for each insurance company to which business was exported.

### **Exemptions to Tax Liability**

No license fee or tax shall apply to premiums received on the following policies:

- Group health insurance provided for state employees;
- Individual health insurance including policies issued through Kentucky Access;
- Workers compensation insurance;
- Public service companies which pay ad valorem taxes;
- Annuities;
- Federal flood insurance; or
- Municipal bonds, leases or other debt instruments issued by or on behalf of the municipality.

No license fee or tax shall apply to policies issued by

- Entities issued a certificate of authority to do business in Kentucky only as a health maintenance organization pursuant to KRS 304.38-060;
- Entities issued a certificate of authority to do business in Kentucky as a captive insurer pursuant to KRS 304.49-010; or
- Domestic life insurance companies electing to be taxed under the provisions of KRS 136.320 – Capital and Surplus Tax.

Additional exemptions may apply pursuant to the ordinance enacted by the local government. Please refer to the tax code for each local government identified on the attached schedule for additional information.

### **Indivisible Premium**

KRS 91A.080 requires a breakdown of all collections by category. Therefore, the appropriate premium must be allocated to the various lines before the applicable tax is calculated. For indivisible premiums, a weight of two-thirds of the premium must be given to the fire provision and one-third of the premium to the property and casualty provisions before determining the tax.

### **Tax on Life Insurance**

The tax on life insurance shall be based on the first year's premiums and applied to the amount actually collected within the first year.

### **Minimum Taxes**

If the calculated tax is less than the stated minimum tax, the insurer must pay the minimum amount. The minimum tax shall be paid quarterly, per company, and is not chargeable to the insured.

### **Flat Fees**

Flat fees shall be paid quarterly, per company, and are not chargeable to the insured.

### **Collection Fees**

Pursuant to KRS 91A.080(4) and 806 KAR 2:090, a reasonable collection fee may be charged and retained by the insurance company or its agent. The collection fee can not be more than 15% of the tax collected and remitted to the local government or 2% of the taxable premium, whichever is less. This fee is in addition to the tax payable.

### **Adding Taxes to Policy Premium**

Each policy issued to an insured for the first time shall include notice that the premium includes a charge for local government premium taxes if local government premium taxes are included in the premium charge.

Pursuant to 806 KAR 2:096, the premium for the following policies must make a provision for license fee or tax:

- Property;
- Casualty;
- Surety;
- Marine;
- Title; or
- Mortgage guaranty insurance.

The premium life and health insurance policies may make a provision for the license fee or tax.

On policies naming a city or the state or one of its agencies as the insured, the license fee or tax may not be added to the policy premium.

### **Unearned Premium**

As to return of premiums to policyholders, KRS 91A.080 specifies that the tax on the unearned premium shall be returned to the policyholder at the same rate at which the tax was collected and shall be taken as a credit by the insurer on its next quarterly report to the local government. Returned premiums shall be reported on the annual reconciliation Form LGT-140. If the tax rate of the returned premium is different from the tax rate of the quarter in which it was returned, the returned premiums and the rate at which they were returned must be listed as a separate line item.

### **Credit for City Tax Against County Tax**

KRS 91A.080(12) requires insurance companies to credit city license fees or taxes against the county license fees or taxes imposed for the same license fees or taxes

imposed by the county. This credit only applies if the county ordinance was enacted on or after July 13, 1990.

For reporting purposes, a credit of the city license fees or taxes against the county license fees or taxes must be taken and a LGT-142 form attached to the quarterly filing ( Form LGT-141) and the annual reconciliation (Form LGT-140) if all of the following are true:

- The risk is located within the city limits;
- The county in which the city is located also imposes a tax;
- The county issued its ordinance on or after July 13, 1990; and
- The county license fee or tax for the applicable category (life, health, casualty, etc.) is higher than the city license fee or tax.

If a credit is required, the insurance company must pay the license fee or tax due to the city and pay the balance due to the county.

For July 1, 2004 through June 30, 2005, this credit applies to the following local governments:

Breckinridge County

- Cloverport
- Hardinsburg
- Irvington

Bullitt County

- Fox Chase
- Hunters Hollow
- Lebanon Junction

Campbell County

- California
- Mentor
- Southgate

Casey County

- Liberty

Hopkins County

- Dawson Springs
- Hanson
- Madisonville

Hopkins County (con't)

- Nebo
- Nortonville
- St. Charles
- White Plains

Jefferson County

- Glenview Manor
- Kingsley
- Ten Broeck
- Watterson Park

Mason County

- Dover

Meade County

- Ekron

Pulaski County

- Science Hill

Wayne County

- Monticello

### **Quarterly Payment of Taxes**

License fees or taxes are due to the applicable local government 30 days after the end of each calendar quarter. Each insurance company must file separately, using form LGT-141 or a substantially similar form. These forms do not need to be filed with the Office of Insurance. However, pursuant to 806 KAR 2:070, these forms must be retained for a minimum period of five (5) years. For more specific information regarding the filing of the quarterly tax return, please refer to the instructions for filing form LGT-141.

### **Penalty for Late Payment**

Pursuant to KRS 91A.080(9), any license fee or tax not paid on or before the due date shall bear interest from the date due until paid. The Department of Revenue has set the interest rate for 2004 at four percent (4%). Any interest due is payable to the applicable local government. Additionally, pursuant to KRS 91A.080(7), willful failure to properly collect and remit the fee or tax constitutes grounds for revocation of the insurance company's certificate of authority.

### **Annual Reconciliation**

Each insurance company must file an annual reconciliation on or before March 31<sup>st</sup> of each year to the applicable local government. In addition, a copy of the annual reconciliation and a filing fee of \$5.00, payable to the Kentucky State Treasurer, must be submitted to the Office of Insurance, Local Government Premium Tax Unit, P.O. Box 517, Frankfort, Kentucky 40602. The insurer must use Form LGT-140 or a substantially similar form.

If an insurance company has not collected premiums for which a local government premium tax applies, the insurance company must still file an annual reconciliation with the Office of Insurance. The annual reconciliation should state the reason that no Kentucky local government premium taxes were due.

For more specific information regarding the filing of the annual reconciliation, please refer to the instructions for filing form LGT-140.

### **Questions**

Questions should be directed to the Local Government Premium Tax Unit. Phone: 502-564-1649; Fax: 502-564-2669; or E-Mail: [doilegalmail@ky.gov](mailto:doilegalmail@ky.gov)

### **Attachments:**

1. 2004-2005 Kentucky Local Government Premium Tax Schedule
2. 2004-2005 Kentucky Local Government Premium Tax Listing of Payees and Addresses
3. Form LGT-140 (03/04), Annual Reconciliation
4. Form LGT-141 (03/04), Quarterly Return
5. Form LGT-142 (03/04), City Credits Against County Taxes